

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Michael Fiorito,

Civil No. 14-845 (DWF/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Pat Carr, Brian Frank,  
Melissa Kachmarek, Aric Hanson,  
Michael Wells, and Officer Moody,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Steven E. Rau dated June 18, 2014. (Doc. No. 12.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge, and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

**ORDER**

1. Magistrate Judge Steven E. Rau's June 18, 2014 Report and Recommendation (Doc. No. [12]) is **ADOPTED**.
2. This action is **DISMISSED WITHOUT PREJUDICE**.
3. Plaintiff's application to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED AS MOOT**.

4. Plaintiff's Motion for a Temporary Restraining Order (Doc. No. [6]) is  
**DENIED AS MOOT.**

5. Plaintiff's second application to proceed *in forma pauperis* (Doc. No. [10])  
is **DENIED AS MOOT.**

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: July 14, 2014

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge